

SUMMONS IN A CIVIL ACTION COURT OF COMMON PLEAS, CUYAHOGA COUNTY JUSTICE CENTER
CLEVELAND, OHIO 44113

CASE NO.
CV14822330

D2 CM

SUMMONS NO.
22916987

Rule 4 (B) Ohio

Rules of Civil
Procedure

DEBORAH DIDONATO-KERNEY EXECUTOR, ETC. PLAINTIFF
VS
SUNRISE SENIOR LIVING, INC., ET AL DEFENDANT

SUMMONS

SUNRISE SENIOR LIVING, INC. DBA
BRIGHTON GARDENS OF WESTLAKE
27819 CENTER RIDGE ROAD
WESTLAKE OH 44145-0000

You have been named defendant in a complaint (copy attached hereto) filed in Cuyahoga County Court of Common Pleas, Cuyahoga County Justice Center, Cleveland, Ohio 44113, by the plaintiff named herein.

You are hereby summoned and required to answer the complaint within 28 days after service of this summons upon you, exclusive of the day of service.

Said answer is required to be served on:



Plaintiff's Attorney

DAVID M GAREAU
23823 LORAIN RD.

SUITE 200
NORTH OLMSTED, OH 44070-0000

Said answer is required to be served on Plaintiff's Attorney (Address denoted by arrow at left.)

Your answer must also be filed with the court within 3 days after service of said answer on plaintiff's attorney.

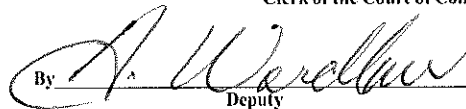
If you fail to do so, judgment by default will be rendered against you for the relief demanded in the complaint.

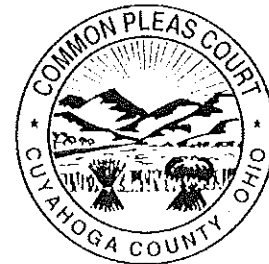
Case has been assigned to Judge:

PETER J CORRIGAN
Do not contact judge. Judge's name is given for attorney's reference only.

DATE
Feb 27, 2014

ANDREA F. ROCCO
Clerk of the Court of Common Pleas

By 
Deputy



COMPLAINT FILED 02/21/2014



IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

DEBORAH DIDONATO-KERNEY
EXECUTOR OF THE ESTATE OF
CAROL M. RICHEY, DECEASED
6222 Rosebelle Avenue
North Ridgeville, OH 44039

Plaintiff,

vs.

SUNRISE SENIOR LIVING, INC.
7900 Westpark Drive, Suite T-900
McLean, Virginia 22102

and

SUNRISE SENIOR LIVING, INC.
DBA BRIGHTON GARDENS OF
WESTLAKE
27819 Center Ridge Road
Westlake, OH 44145

and

SOLOMON HOLDINGS I – THE
TRIANGLE, LLC
c/o National Corporate Research, Ltd., Its
Statutory Agent
904 Master Drive
Galloway, OH 43119

Defendants.

CASE NO.

Judge: PETER J CORRIGAN

CV 14 822330

COMPLAINT

**(JURY DEMAND ENDORSED
HEREON)**

**(AFFIDAVIT OF MERIT ATTACHED
HERETO)**

Now comes Plaintiff Deborah Didonato-Kerney, Executor of the Estate of Carol M. Richey, Deceased, by and through counsel, and for her Complaint against Defendants Sunrise Senior Living, Inc.; Sunrise Senior Living, Inc. dba Brighton Gardens of Westlake; and

DUNSON & DUNSON CO., L.P.A.
ATTORNEYS AND COUNSELORS AT LAW
21851 CENTER RIDGE ROAD - SUITE 410
ROCKY RIVER, OHIO 44116

OFFICE 440-331-3191

FAX 440-331-0977

EMAIL: dunsonlp@aabcglobal.net

Solomon Holdings I – The Triangle, LLC (collectively referred to as “Brighton Gardens”) and alleges as follows:

BACKGROUND

1. Plaintiff Deborah Didonato-Kerney is the duly appointed and authorized Executor of the Estate of Carol M. Richey, having been appointed Executor on or about September 4, 2013 by the Court of Common Pleas for Lorain County, Ohio, Probate Division.

2. Defendant Sunrise Senior Living, Inc. is, upon information and belief, a Delaware for profit corporation engaged in providing, *inter alia*, assisted living, independent living, and skilled nursing services. Upon information and belief, Sunrise Senior Living, Inc. manages “Brighton Gardens of Westlake,” offering assisted living, independent living, and/or skilled nursing services to individuals at 27819 Center Ridge Road, Westlake, Ohio.

3. Defendant Sunrise Senior Living, Inc. does business as Sunrise of Rocky River, which is named as a Defendant in this lawsuit as an alter ego of Sunrise Senior Living, Inc.

4. Solomon Holdings I – The Triangle, LLC is (“Solomon”), upon information and belief, a Georgia limited liability company authorized to do business in the State of Ohio. Upon information and belief, Solomon owns Brighton Gardens of Westlake, and at all relevant times has engaged Sunrise Senior Living Services, Inc. to manage Brighton Gardens of Westlake.

5. On or about May 19, 2013, Carol M. Richey entered into a residency agreement with Defendant Solomon Holdings I –The Triangle, LLC, by and through its agent Sunrise Senior Living Services, Inc. A true and accurate copy of the residency agreement is attached hereto as Exhibit A.

6. Upon admission, a care plan was developed for Carol M. Richey, by Brighton Gardens. The care plan reflects that Carol Richey required the assistance of 1 person for bathing, dressing, bathroom assistance, mobility and transferring. Carol M. Richey was deemed a fall risk because of her need to use the bathroom frequently, and was instructed to use her call light for assistance. The care plan required multiple interventions for safety, including those listed under transferring which state "The designated care manager will help her transfer to and from surfaces using a Gait Belt."

7. On June 5, 2013, at approximately 1:30 p.m., Ms. Richey was assisted to the bathroom in a wheelchair. She was transferred to the toilet, and the wheelchair wheels were not locked after the transfer.

8. When transferring back from the toilet, to the wheelchair, the wheelchair moved because the wheels were not locked, causing Mrs. Richey to fall violently to the ground, sustaining serious injury, including a broken hip.

9. An Affidavit of Merit, signed by Gretchen E. Hazle, RN, LNHA, CPHQ, addressing the negligence of Defendants in causing the injury to Carol Richey, is attached hereto as Exhibit B.

COUNT ONE

10. Plaintiff incorporates herein the allegations contained in Paragraphs One Through Nine above, as if re-stated herein.

11. Defendants owed Carol M. Richey a duty of care in assisting her in the use of the bathroom, and in transferring her to and from the toilet, including specifically locking the wheelchair wheels while Carol M. Richey transferred to and from the toilet. .

12. Defendants breached that duty of care on June 5, 2013, causing Carol M. Richey to fall and sustain significant injury. Carol M. Richey suffered extreme pain and suffered tremendously following the fall.

13. As a direct and proximate result of Defendants' breach of the duty of care owed to Carol M. Richey, Carol M. Richey suffered physical injury, extreme pain and mental anguish; was removed from her residence at Brighton Gardens; was forced to undergo surgery; and was caused to incur significant medical bills.

14. As a result of the negligence of Defendants, Plaintiff Deborah Didonato-Kerney, as the duly appointed and authorized Executor of the Estate of Carol M. Richey, in her capacity as Executor of the Estate of Carol M. Richey, is entitled to damages in an amount in excess of \$25,000.00.

COUNT TWO

15. Plaintiff incorporates herein the allegations contained in Paragraphs One Through Fourteen above, as if re-stated herein

16. Sunrise Senior Living, Inc. and Sunrise Senior Living, Inc. dba Brighton Gardens of Westlake are liable for the negligent acts of their employee in failing to lock the wheelchair wheels, in violation of the duty of care owed to Carol M. Richey, under principles of *respondeat superior*.

17. Plaintiff is entitled to judgment against Sunrise Senior Living, Inc. and Sunrise Senior Living, Inc. dba Brighton Gardens upon her claim of *respondeat superior* in an amount in excess of \$25,000.00.

WHEREFORE, on her Complaint, Plaintiff demands as follows:

1. As to Count One, judgment against Defendants in an amount in excess of \$25,000.00;
2. As to Count Two, judgment against Defendants Sunrise Senior Living, Inc. and Sunrise Senior Living, Inc. dba Brighton Gardens of Westlake, in an amount in excess of \$25,000.00;
3. Pre- and post-judgment at the maximum amount permitted by law.
4. Her reasonable costs.
5. Any and all such other relief the Court deems fair, just and equitable.

Respectfully submitted,



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Co-Counsel for Plaintiff

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JURY DEMAND

A trial by jury is hereby demanded in the within cause of action.



Richard W. Dunson
Attorney for Plaintiff

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COUNTY OF SUMMIT)

STATE OF OHIO)

AFFIDAVIT OF MERIT

(Civ. R. 10(d)(2))

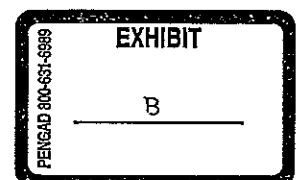
Now comes Gretchen Hazle who, have first been duly sworn, deposes and states as follows:

1. My name is Gretchen E. Hazle, RN, LNHA, CPHQ. I am an adult resident of the State of Ohio, of sound mind, and in all respects competent to make this Affidavit.

2. I am a registered nurse with the State of Ohio, and have been so since March 25, 1975. I am also the Executive Director and Owner of Haven Homes Assisted Living of Stow, Inc., and have been since 2000. In that capacity I am responsible for day to day operations, standards of care, resident care, regulatory compliance, and fiscal responsibility.

3. I devote more than half my professional time to the operation of Haven Homes Assisted Living of Stow, Inc., including all responsibilities set forth above. Because of my professional background and my role as Executive Director and Owner of Haven Homes Assisted Living of Stow, Inc., I am familiar with the standards of care applicable to those who operate nursing homes, extended care facilities, and assisted living facilities in the State of Ohio.

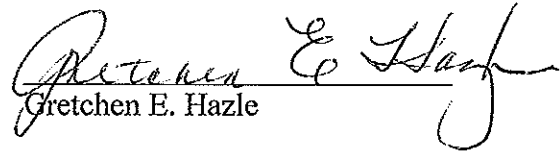
4. I have reviewed the records currently available concerning Brighton Gardens of Westlake, as they relate to Carol Richey, as well as medical records for Carol



Richey and the transcription of a October 29, 2013 Long Term Care Program representative.

5. It is my opinion based upon my review of those records, that the Defendants Sunrise Assisted Living, Inc. and Sunrise Assisted Living, Inc. dba Brighton Gardens of Westlake breached the standard of care applicable to assisted living facilities, and that the breach of care directly caused injury to Carol Richey.

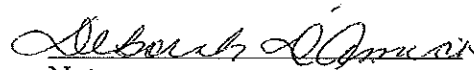
Affiant Further Sayeth Naught:


Gretchen E. Hazle

Sworn to and subscribed before me this 14 day of February, 2014.



Deborah D'Amico
Resident Summit County
Notary Public, State of Ohio
My Commission Expires: 8/23/2018


Notary

8/23/2018
My commission expires